

Appl. No. 09/929,030
Amdt. dated March 18, 2004
Reply to Office Action of October 28, 2003

REMARKS

Reconsideration and allowance of the above-identified application are respectfully requested. Upon entry of this Amendment, claims 1-26 will be pending.

Applicants appreciate the Examiner's indication that dependent claims 3, 4, 10 and 11 include allowable subject matter. These claims are written in independent form as new claims 23-26, respectively, and should therefore be allowable. Applicants further note that claims 15 and 16, which were presented in the Amendment filed on August 5, 2003, correspond to allowable claims 3 and 10, respectively, written in independent form to include the power supply features of those claims without the limitations added to independent claims 1 and 8 by that Amendment. Accordingly, claims 15 and 16 should be allowable as well.

In the final Office Action, claims 1, 2, 5, 8, 9, 12, 15 and 16 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,442,398 to Padovani et al., previously cited, in view of newly cited U.S. Patent No. 4,876,710 to Reed. In addition, dependent claims 6, 7, 13 and 14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Padovani and Reed patents in view of previously cited U.S. Patent No. 6,373,430 to Beason et al. These rejections are respectfully traversed.

In particular, as discussed in more detail below, Applicants respectfully submit that none of the cited patents, viewed individually or in combination, teaches or suggests a mobile *access point* that is adapted to transmit and receive communications signals to provide a wireless user terminal with access to a packet-switched communications network. That is, Applicants respectfully submit that the alleged "mobile" access points taught by the Padovani patent are merely *deployable* base stations that are moved from location to location, but are not truly

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“mobile” access points that are capable of transmitting and receiving signals, and providing access to a network, *while they are moving*. Also, Applicants submit that the primary mobile unit 11 and secondary mobile unit 51 taught by the Reed patent cannot reasonably be construed as a mobile “access point” of a packet-switched communications network, but rather, merely act as a repeater for a short-range mobile radio, such as that used by a law enforcement officer. Furthermore, Applicants submit that there would have been no motivation for one skilled in the art to modify the deployable fixed base stations of the cellular CDMA communication system taught by the Padovani patent in accordance with the teachings of the Reed patent that merely relate to a repeater for a short-range conventional mobile radio. In addition, Applicants submit that the GPS radio unit as taught by the Beason patent does not make up for the above deficiencies in the teachings of the Padovani and Reed patents to have rendered even independent claims 1 and 8 unpatentable.

The rejections will now be discussed individually in detail.

The 35 U.S.C. § 102(e) Rejection Based on the Padovani Patent

In this rejection, the Examiner again contends that the Padovani patent teaches a method and apparatus for providing a mobile access point. In particular, the Examiner refers to the base station 40 shown in Fig. 2 and described in column 9, lines 25-29 of the Padovani patent. The Examiner contends that this base station 40, which can be moved from location to location, meets the criteria of the “mobile access point” as recited in independent claims 1 and 8. Applicants respectfully disagree.

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In particular, as discussed in the Amendment in response to the previous Office Action, Applicants note that column 9, lines 27-29 of the Padovani patent merely describe a “portable” base station. Applicants respectfully submit that this “portable” base station is what is commonly referred to in the industry as “cellsite on wheels” or “COW”. However, as admitted by the Examiner, nowhere does the Padovani patent teach or suggest that these base stations are operating *while they are moving*, or, in other words, act as “mobile access points” to provide communication links and access to a network while they themselves are mobile.

Nevertheless, for this feature, the Examiner relies on the teachings of the Reed patent pertaining to the primary mobile unit 11 and secondary mobile unit 51, and contends that one skilled in the art would have found it obvious to modify the base stations described in the Padovani patent in accordance with these teachings to achieve the present invention as defined in the rejected claims. Applicants respectfully disagree.

Specifically, as identified by the Examiner, the Reed patent teaches a method and apparatus for enabling a short-range transceiver, such as a portable radio typically used by a law enforcement officer, to communicate with a base station. As shown in Figure 2 and described beginning at line 42 of column 3 of the Reed patent, a secondary mobile unit 51 is mounted in a vehicle 12, such as a police car, and is coupled to a primary mobile unit 11 that can communicate with a base station 13. The primary and secondary mobile units 11 and 51 thus cooperatively function as a repeater to enable a portable unit 10, such as a portable radio, to communicate with the base station 13.

Applicants respectfully submit that as stated above, a repeater that is capable of being used with a conventional radio as taught by the Reed patent has no relationship to a base station

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of a CDMA cellular-type system that is capable of communicating directly with multiple mobile units. That is, the secondary mobile unit 51 and primary mobile unit 11 used in the Reed system are not capable of operating as an “access point” of a packet-switched network as the term is known in the art. As described, for example, in paragraphs 0026-0027 of the present application, and as can be appreciated by one skilled in the art, an intelligent “access point” (IAP) of a packet switched network employs backhaul technology that provides a high-speed connection, such as a T1 or a T3 connection, an optical fiber connection, or a microwave connection, that is suitable for communicating with a core local access network (LAN). Clearly, the primary mobile unit 11 and secondary mobile unit 51 taught by the Reed patent are not intended for this purpose.

It is therefore apparent that the Examiner is broadly interpreting the term “access point” as any type of device that enables a mobile unit to communicate with a network. Hence, in order to clarify the manner in which an access point distinguishes from, for example, a simple repeater, independent claims 1 and 8 are being amended to define further details of the mobile “access point”, such as the backhaul interface as described in paragraphs 0026 and 0027 of the present application. Again, Applicants respectfully submit that in no way does the Reed patent teach or suggest that the primary mobile unit 11 and secondary mobile unit 51 can function as such a sophisticated “access point” of a packet-switched network. Applicants further respectfully submit that the Padovani patent also fails to teach or suggest that the base stations are configured in such a manner. Therefore, Applicants submit that not only is there no motivation to modify the Padovani system in accordance with the teachings of the Reed patent for the reasons discussed above, but even if such motivation were to have existed, the modified

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structure would not achieve or render obvious the present invention as recited even in amended independent claims 1 and 8. Accordingly, amended independent claims 1 and 8, and all dependent claims, should be allowable.

In addition, new dependent claims 17-22 are being added to further define the features of the wireless backhauls and the packet-switched network. Applicants respectfully submit that although these claims should be allowable by their dependency on independent claims 1 and 8, the Padovani and Reed patents fail to teach or suggest the more detailed aspects of the embodiments of the invention as recited in these claims.

The 35 U.S.C. § 103 Rejection Based on the Padovani, Reed and Beason Patents

In this rejection, the Examiner admits that the Padovani and Reed patents fail to teach or suggest the location determining features as recited in dependent claims 6, 7, 13 and 14. However, for this feature, the Examiner relies on the teachings relating to the portable GPS/radio unit set forth in the Beason patent, and contends that one skilled in the art would have found it obvious to modify the base station in the Padovani system to include the GPS features.

Applicants respectfully submit, however, that nowhere does the Beason patent teach or suggest a mobile “access point” that is capable of operating while it is itself moving, and thus can provide access to a network while maintaining its mobility, as opposed to portable base stations which are merely deployed to fixed locations and then activated. Furthermore, nowhere do the Padovani, Reed or Beason patents teach or suggest the need for GPS functionality in the portable base stations or repeaters. Accordingly, Applicants submits that one skilled in the art

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would not have been motivated to modify the base stations taught by Padovani patent to include GPS functionality which, as taught in the Beason patent, is employed in portable hand-held radio unit, not larger base stations or access points. However, even if such motivation did exist, the teachings of the Beason patent fail to make up for the deficiencies in the teaching of the Padovani and Reed patents with regard to the mobile "access points" as discussed above. Hence, Applicants submit that independent claims 1 and 8, and all dependent claims, should be allowable over the Padovani and Beason patents.

In view of the above, it is believed that the subject application is in condition for allowance, and notice to that effect is respectfully requested. However, should the Examiner have any questions, he is invited to contact the undersigned at the number indicated below.

Respectfully submitted,



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